

Estate Administration

Estate administration, sometimes called Probate, is the process of dealing with someone's estate after they have died. Some people choose to carry out the administration themselves; whilst this may be an option, using a professional would be recommended (or essential) in many situations, for example where inheritance tax is likely to be payable; minor beneficiaries or trusts are involved; the validity of the will is in question or the will could be contested.

Also acting as an executor can be complex and time-consuming, the process relies on specialist legal knowledge and there are many complications that can arise. Whilst it can be possible for a lay person to deal with the deceased's estate without a professional's help, this often leads to delays and problems further down the line. Also executors are personally liable for any losses resulting from their actions.

At Dunham McCarthy our team, working with various associates and specialists can help. Together we offer a comprehensive, tailored service helping with anything from a Grant of Probate to dealing with Inheritance Tax.

WHAT ARE THE BENEFITS?

FAST DISTRIBUTION

We've got the systems and team in place to keep your case moving forward and we're committed to distributing the assets as quickly as possible.

FIXED FEE SERVICE

Many estates can be dealt with in full for a pre-agreed fixed fee. It is also possible to deal with many aspects of more complex estates on a fixed fee basis.

FACE TO FACE ADVICE

We can visit you at home or you are welcome to meet with specialists at our offices to discuss your requirements and the ongoing administration.

NO UPFRONT COSTS

Provided there are sufficient funds, the cost of administration can be taken from the estate once any work is completed.

FLEXIBLE

Our associates can deal with the full administration process from start to finish or just specific elements (inheritance tax for example). You are in control, we help only where needed.

The process

Preparation of tax forms (3 weeks)

Inheritance Tax forms need to be prepared (even if there is no tax to pay). If there is tax to pay asset valuations will need to be obtained. Work on the Income Tax affairs can also begin at this point.

Closing accounts (2 weeks)

Once received the grant can be sent to banks, mortgage companies and anywhere else the deceased had an account, policy or debt. Accounts can then be closed and funds collected.

Paying debts (4 weeks)

If there are sufficient funds, the deceased's debts should be paid at this point, also where necessary a "creditors' notice" should be placed. If the Department for Work and Pensions has opened an enquiry against the estate, it will need to be dealt with.

Producing estate accounts (3 weeks)

Estate accounts need to be produced detailing the assets gathered in, money paid out and the final sum to be distributed to beneficiaries. Accounts should be retained for at least 12 years.

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Gathering information (4 weeks)

This involves contacting banks, HMRC, the Department for Work and Pensions, creditors and other financial institutions to notify them of the death and ask for date-of-death valuations.

Month 2

Application for a Grant (4 weeks)

Once received a Grant of Representation (commonly known as a Grant of Probate) will allow work to begin on trusts within the Will, property transfers and other legal tasks like statutory declarations.

Month 4

Selling & transferring assets (7 weeks)

Property shares and other assets may be sold or transferred to beneficiaries, this can take several weeks.

Month 6

Finalising legal & tax work (8 weeks)

Most legal and tax work can be finalised, this may involve setting up Trusts created by the Will, producing statutory declarations and dealing with Cessate Grants. Also an income Tax return needs to be completed and submitted to HMRC and any overpaid Inheritance Tax to be reclaimed.

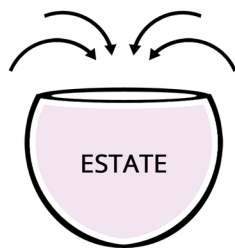
Month 12+

Final distribution (2 weeks)

The administration process is nearly complete, allowing a full and final distribution to beneficiaries.

Liabilities

Mortgages
Secured Loans
Income Tax
Utilities
Credit Cards
Funeral Expenses
Administration Costs



Assets

Family Protection
Life Insurance
Mortgage Protection
Pensions
Family Home
Savings & Shares
Household Goods

* Assets held in trust - such as life insurance - may pass to beneficiaries within days, often free of tax.

NET ESTATE

INHERITANCE
TAX (40%)



BENEFICIARIES

* Where applicable

Q & A

What is a Grant of Probate?

If there is a Will, the executors named in it can apply to the probate registry for a 'Grant of Probate'. This is a document confirming the executors' legal authority to deal with the estate. If there is no Will, a relative can apply for a 'Grant of Letters of Administration' instead. Both grants allow the Personal Representatives of the deceased (PR's) to deal with assets as necessary.

Will a grant always be necessary?

Where the deceased made a valid Will appointing executors a Grant of Probate may not be necessary depending on the extent of the estate and type of assets involved. Generally where significant amounts of money or a property is involved a grant will be needed. Regardless some banks and other organisations may be prepared to release small sums after seeing a copy of the death certificate.

What happens without a will?

Where a person dies without a Will they are known to have died 'intestate'. The Administration of Estates Act 1925 sets out who apply for a Grant of Letters of Administration; this is the paperwork necessary to become the deceased's Administrator. The duties of an Administrator are broadly the same as those of an Executor, although where a person passes away without a Will the administrative process will be more complex. The same act also dictates who will benefit from the deceased's estate and in what proportions. Broadly speaking if there are no surviving children, grandchildren or great-grandchildren, the spouse will inherit everything. If there are surviving children, grandchildren or great grandchildren the partner will inherit all the personal property and belongings together with the first £250,000 of the estate and half of the remaining estate.

What happens to the deceased's debts?

The deceased's PR's are responsible for making sure that outstanding debts left by the deceased are paid before any money is paid to beneficiaries. If the deceased's assets are insufficient to cover the debts, the estate is 'insolvent' and special rules apply. An Executor can be held personally liable if assets in an estate are distributed before all debts are paid.

What is an Executor?

Executors are the persons appointed in the Will to complete the administration of the estate. Essentially, their responsibility is to protect a deceased person's property until all debts and taxes have been paid, and to transfer what remains to those entitled under the Will (see diagram to left). Where there is no Will, the people who are responsible for the distribution of that person's estate (called the intestate) are usually their next of kin. They are called administrators and their responsibilities are effectively the same as those of the executors. Both executors and administrators are known as Personal Representatives.

What is an estate?

Someone's estate is everything that they own; all of their assets (whether real property or personal property) and their liabilities.

Can the Will be varied after death?

There are many situations where it may be desirable to vary the deceased's Will. In this situation all of the beneficiaries affected would need to agree to the Variation, if any affected beneficiaries are minors or lack mental capacity a court will need to approve the variation. If the estate is taxable, the variation must be registered with the Inland Revenue.

How do I know the Will is valid?

The Probate Registry office will tell you if the Will is valid. If a will seems to have been properly signed and witnessed, chances are all is well. You have no responsibility to investigate unless someone suggests that there is a problem.

As an executor, can I be sued?

As an executor you are personally liable to any beneficiaries or creditors who lose out as a result of your mistakes. Additionally you must pay any fines, taxes or interest charged to the estate as a result of administrative errors. Liability is extensive so it may be useful to obtain legal advice.

Will Inheritance Tax be payable?

Inheritance Tax is a tax on the estate of someone who's died. There's normally no Inheritance Tax to pay if either the value of your estate is below the £325,000 threshold you leave everything above the £325,000 threshold to your spouse, civil partner, a charity or a community amateur sports club.

WHAT ARE THE COSTS?

Costs will vary depending on the value and complexity of the Estate. Broadly speaking professional fees tend to fall between £1,500 and £5,000. In addition to professional fees there are other administrative costs, of which the fee for the grant of probate is usually the most significant.

The fee to obtain grant is proportionate to the value of the estate:

ESTATE VALUE / FEE	
0 - £50,000	= £0
£50,000 - £300,000	= £250
£300,000 - £500,000	= £750
£500,000 - £1,000,000	= £2,500
£1,000,000 - £1,600,000	= £4,000
£1,600,000 - £2,000,000	= £5,000

Our team here at Dunham McCarthy, working together with various specialists can deal with everything.

Remember executors can be held financially liable for any mistakes made, so careful planning and consideration is required before beginning the administration process.

Do I need a professional?

Acting as an executor can be complex and time-consuming, the process relies on specialist legal knowledge and there are many complications that can arise. Whilst it can be possible for a lay person to deal with the deceased's estate without a professional's help, this often leads to delays and problems further down the line. Also using a professional would be recommended (or essential) if:

- › inheritance tax is likely to be payable;
- › business or overseas assets are involved;
- › minor beneficiaries are involved;
- › trusts are involved;
- › the validity of the Will is in question;
- › the Will could be contested.

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Over the years Dunham McCarthy has moved from strength to strength, providing innovative financial and legal services to private clients across the country.

Our team has grown to accommodate each of our 20,000+ existing clients individual needs, so contact us today and find out how we can help you and your family.

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Advice on a range of term and whole-of-life insurance policies from leading providers.

ILLNESS PROTECTION

Compare hundreds of critical illness, serious illness, accident and sickness policies.

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Insurance policies for buildings, contents, businesses and much more.

MORTGAGES

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THE
DM
GROUP

WILLS & TRUSTS

Detailed advice and drafting of Wills including the production of various Will trusts.

POWERS OF ATTORNEY

Producing documents for and providing advice on appointing attorneys both lasting and general.

HOME PROTECTION

Protecting clients homes from various risks ensuring assets pass to the intended beneficiaries.

FUNERAL PLANS

Helping clients plan and pay for their funerals in advance reducing long term costs in real terms.

PROBATE

The administration of the deceased's estate in accordance with the directions laid out in their will.

WEALTH MANAGEMENT

Detailed analysis and risk based advice on pensions and investments.

PENSION ADVICE

Helping clients plan for their retirement by maximising existing pension growth or starting a new scheme.